

§ 218.9 Modifications to Letters of Authorization.

(a) Except as provided in paragraph (b) of this section, no substantive modification (including withdrawal or suspension) to the Letter of Authorization by NMFS, issued pursuant to § 216.106 of this chapter and § 218.7 and subject to the provisions of this subpart shall be made until after notification and an opportunity for public comment has been provided. For purposes of this paragraph, a renewal of a Letter of Authorization under § 218.8, without modification (except for the period of validity), is not considered a substantive modification.

(b) If the Assistant Administrator determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 218.2(c), a Letter of Authorization issued pursuant to § 216.106 of this chapter and § 218.7 may be substantively modified without prior notification and an opportunity for public comment. Notification will be published in the FEDERAL REGISTER within 30 days subsequent to the action.

Subpart B—Taking Marine Mammals Incidental to U.S. Navy Training in the Jacksonville Range Complex (JAX Range Complex)

SOURCE: 74 FR 28365, June 15, 2009, unless otherwise noted.

§ 218.10 Specified activity and specified geographical area and effective dates.

(a) Regulations in this subpart apply only to the U.S. Navy for the taking of marine mammals that occurs in the area outlined in paragraph (b) of this section and that occur incidental to the activities described in paragraph (c) of this section.

(b) The taking of marine mammals by the Navy is only authorized if it occurs within the JAX Range Complex Operation Areas (OPAREAs), which are located along the southern east coast of the U.S. The two principal OPAREAs within the JAX Study Area are the Jacksonville OPAREA and the

Charleston OPAREA (sometimes referred to collectively as the JAX/CHASN OPAREA, or simply the OPAREA). The northernmost point of the JAX/CHASN OPAREA is located just north of Wilmington, North Carolina (34°37' N) in waters less than 20 m (65.6 ft) deep, while the easternmost boundary lies 281 nm (518.6 km) offshore of Jacksonville, Florida (77°00' W in waters with a bottom depth of nearly 2,000 m [1.243 mi]).

(c) The taking of marine mammals by the Navy is only authorized if it occurs incidental to the following activities within the designated amounts of use:

(1) The detonation of the underwater explosives indicated in paragraph (c)(1)(i) of this section conducted as part of the training events indicated in paragraph (c)(1)(ii) of this section:

(i) Underwater Explosives:

(A) AGM-114 (Hellfire missile);

(B) AGM-65 E/F (Maverick missile);

(C) Mine Neutralization (20 lb NEW charges);

(D) 5" Naval Gunfire;

(E) MK3A2 anti-swimmer concussion grenades.

(ii) Training Events:

(A) Mine Neutralization (20 lb NEW charges)—up to 60 exercises over the course of 5 years (an average of 12 per year);

(B) Missile Exercise (MISSILEX) (Air-to-Surface; Hellfire missile)—up to 350 exercises over the course of 5 years (an average of 70 per year);

(C) Missile Exercise (MISSILEX) (Air-to-Surface; Maverick)—up to 15 exercises over the course of 5 years (an average of 3 per year);

(D) FIREX with IMPASS—up to 50 exercises over the course of 5 years (an average of 10 per year); and

(E) Small Arms Training with MK3A2 anti-swimmer concussion grenade (0.5 lbs NEW)—up to 400 grenades over the course of 5 years (an average of 80 HE grenades used per year).

(2) [Reserved]

(d) Regulations are effective June 8, 2009 and are applicable to the Navy on June 5, 2009 through June 4, 2014.